

THE WHITE HOUSE

WASHINGTON

December 21, 1979

DD/A Registry

79-3898

Executive Registry

79-8953

DDA REGISTRY

FILE: *Legal*

Dear Stan:

Section 1-709 of Executive Order 12036 requires that senior officials of each of the agencies within the Intelligence Community report to the Intelligence Oversight Board any intelligence activities of their organizations which raise questions of legality or propriety. In previous years, the Board has received annual reports from the heads of the intelligence agencies to supplement prompt reporting of serious matters that arise during the year. We request that you submit your annual report by January 31, 1980.

In order to assist you in preparing your annual report, we suggest a set of guidelines as described below. The substance of these guidelines was implicit in past annual reports, but we believe that an explicit statement of the import of the annual report will better serve the President's intelligence oversight goals.

The Order requires reports from "senior officials," but does not further define the specific officials upon whom the reporting obligation is imposed. The Board believes that the annual reports should be submitted by the head of the intelligence agency after consultation with other senior officials who are likely to be aware of intelligence activities raising a question of legality or propriety. Within the Central Intelligence Agency, such officials would include the Deputy Director of Central Intelligence; the Deputy Directors for Operations, Administration, and Science and Technology; and such other senior officials below the level of Deputy Director that you believe necessary to ensure that all reportable activities are included. Because the Executive Order includes the staff elements of the Office of the Director of Central Intelligence in the definition of "agencies within the Intelligence Community," we also suggest that you consult with appropriate senior officials of those staff elements.

Your annual report should include an indication of the senior officials who have been consulted in connection with the preparation of the report.

Section 1-709 does not require that senior officials file duplicative reports concerning matters already reported by the Inspector General or General Counsel. The section does, however, require that senior officials report all intelligence activities raising a question of legality or propriety that are not reported to the Intelligence Oversight Board by the General Counsel or Inspector General.

79-3898

- 2 -

The standard for determining whether an intelligence activity should be reported is whether the activity raises a question of legality or propriety. The fact that an intelligence activity has been found, on balance, to be within the law does not exempt it from the reporting requirement. If the activity raises a question of legality or if a clearly legal activity raises a question of propriety, it should be reported to the Board. Moreover, the fact that an activity has been approved by officials in an intelligence agency, the Department of Justice, or the White House does not resolve the question of whether the activity is reportable under section 1-709. The reporting standard concerning questions of legality or propriety also applies to activities that have been subjected to established approval and review procedures.

The Order requires that the reports of senior officials be made to the Intelligence Oversight Board. A report to any other White House official or to any Department of Justice official does not satisfy the responsibility assigned to senior officials by section 1-709. Even if an intelligence activity raising a question of legality or propriety has been reported to the White House or the Department of Justice, a report should be made to the Intelligence Oversight Board.

We hope that this letter has been of assistance in clarifying the reporting responsibilities of section 1-709 and look forward to receipt of your annual report.

Sincerely,



Thomas L. Farmer
Chairman, Intelligence
Oversight Board

The Honorable Stansfield Turner
Director of Central Intelligence
Washington, D. C. 20505

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Next 1 Page(s) In Document Exempt

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